

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:21-cv-00273-MR-WCM**

KIMBERLY M. CARLISLE,)
Plaintiff,)
vs.)
ABRAM WIEBE and MINER)
EXCAVATING AND TRUCKING LTD.,)
Defendants.)

ORDER

THIS MATTER is before the Court on the parties' Joint Motion to Transfer Venue [Doc. 9].

The Plaintiff initiated this action in the Superior Court of Sampson County, North Carolina, on August 19, 2021. [Doc. 1-1]. On October 10, 2021, the Defendant Miner Excavating and Trucking Ltd. removed the action to this Court. [Doc. 1]. The Plaintiff subsequently moved to remand the action on the grounds that the Defendant removed the action to the wrong District Court. [Doc. 7]. In lieu of responding to the Motion to Remand, the

Defendant has filed, with the Plaintiff's consent, a motion to transfer venue to the Eastern District of North Carolina.¹ [Doc. 9].

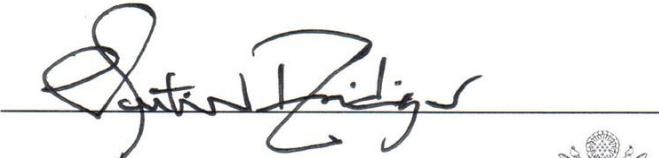
Title 28 of the United States Code, Section 1406(a) provides that “[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” Here, the Plaintiff's civil action should have been removed to the Eastern District of North Carolina. See 28 U.S.C. § 1441(a) (state court action may be removed “to the district court of the United States for the district and division embracing the place where such action is pending”). Accordingly, the Court concludes that the interest of justice would be served by transferring this matter to the Eastern District of North Carolina for further proceedings.

Accordingly, **IT IS, THEREFORE, ORDERED** that this case is hereby **TRANSFERRED** to the United States District Court for the Eastern District of North Carolina for such further proceedings as are deemed necessary.

¹ Upon the filing of the Joint Motion to Transfer Venue, the Plaintiff withdrew her Motion to Remand. [See Doc. 10].

IT IS SO ORDERED.

Signed: November 22, 2021



Martin Reidinger
Chief United States District Judge

